

UNITED STATES COURT OF MILITARY COMMISSION REVIEW

UNITED STATES OF AMERICA

CMCR CASE NO. 07-0001

v.

***RULING ON REQUEST FOR  
ADDITIONAL JUDICIAL  
DISCLOSURE.***

OMAR AHMED KHADR

30 JULY 2007

In a supplemental request filed with the Court on 25 July 2007, counsel for Mr. Khadr (Appellee) have requested additional disclosure to that made by the Court on 23 July 2007. Specifically, Mr. Khadr's defense team has asked for "complete disclosure" of the particular email communication with the Office of General Counsel, Department of Defense, and the "precise identity" of the official with whom the communications occurred." See Appellee's Request for Additional Judicial Disclosure of 25 Jul 2007, at 1.

**RULING/DISCLOSURE:**

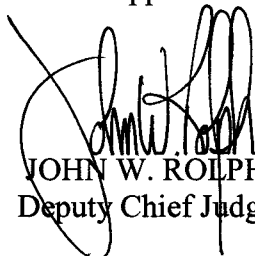
References:

- a. ABA Model Code of Judicial Conduct, Canon 2
- b. ABA Model Code of Judicial Conduct, Canon 3

1. The Appellee's request for additional judicial disclosure is **GRANTED**.
2. In deference to references (a) and (b), I hereby disclose to all parties the fact that the email communication in question was with:

Mr. Paul Ney  
Deputy General Counsel (Legal Counsel)  
Office of the General Counsel  
Department of Defense  
1600 Defense Pentagon, Room 3B688  
Washington, DC 20301-1600

3. In the Attachment, I provide a copy of the email I sent to Mr. Ney on 11 July 2007, for whatever relevance it may have in relation to the Appellee's Motion to Abate Proceedings.

  
JOHN W. ROLPH  
Deputy Chief Judge

From: Ney, Paul, Mr, DoD OGC [mailto: [REDACTED]]  
Sent: Wednesday, July 11, 2007 15:08  
To: Rolph, John W CAPT Navy-Marine Corps Court of Criminal Appeals  
Subject: RE: CMCR swearing-in ceremony?

Yes, John. I saw that. And, while I think the subsequent promulgation of the Reg covers us, I agree that the most prudent course is ratification and explicit approval to remove any question.

Paul Ney  
Deputy General Counsel (Legal Counsel)  
Office of the General Counsel  
Department of Defense  
[REDACTED]

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-----Original Message-----

From: Rolph, John W CAPT Navy-Marine Corps Court of Criminal Appeals  
[mailto: [REDACTED]]  
Sent: Wednesday, July 11, 2007 2:51 PM  
To: Ney, Paul, Mr, DoD OGC  
Subject: RE: CMCR swearing-in ceremony?

Mr Ney:

Thank you very much. My concern is RMC 1201(b)(4), which suggests that our Court's Rules are subject to "the review and approval of the Secretary."

V/R John

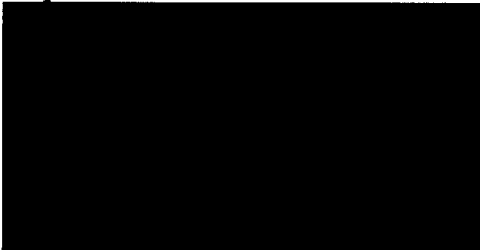
-----Original Message-----

From: Ney, Paul, Mr, DoD OGC [mailto: [REDACTED]]  
Sent: Wednesday, July 11, 2007 14:13  
To: Rolph, John W CAPT Navy-Marine Corps Court of Criminal Appeals  
Subject: RE: CMCR swearing-in ceremony?

John,

I'm working on those ratifications. I'll work on the rules, too, though Reg 25-3, I think, provides that the Chief Judge's promulgation of the rules is sufficient.

Paul Ney  
Deputy General Counsel (Legal Counsel)  
Office of the General Counsel  
Department of Defense



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-----Original Message-----

From: Rolph, John W CAPT Navy-Marine Corps Court of Criminal Appeals

[mailto:

Sent: Wednesday, July 11, 2007 1:56 PM

To: Ney, Paul, Mr, DoD OGC

Cc: Bennett, David, Mr, DoD OGC; Foreman, Leroy Mr DoD OGC; Harvey, Mark Mr DoD OGC

Subject: RE: CMCR swearing-in ceremony?

Thank you, Mr. Ney.

It did indeed go very well, and our first official CMCR meeting that followed went equally as well. Lee Foreman and Mark Harvey did a tremendous job briefing the entire Court on how we will be doing business -- all very professional!

I had intended to contact you today regarding two housekeeping matters.

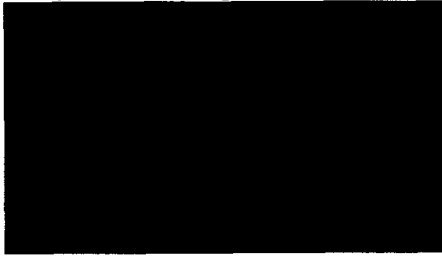
First, I wanted to check with you to see if the SecDef had signed anything yet formally approving our Rules of Practice, as contemplated by the Rules for Military Commissions.

Second, has the SecDef ratified in writing the Chief Judge/Deputy Chief Judge and military appellate judge appointments that were approved by Secretary England on June 15th and on May 8th, respectively? As you know, Section 950f of the MCA 2006 states that "The Secretary shall assign appellate military judges to a Court of military Commission Review". If it is not too much trouble, it would be useful for the CMCR to have that documentation in hand for the Court's historical record, and in case subsequent validation of our appointments is required.

Thank you for your very kind email. I really appreciate it.

V/R John

Captain John W. Rolph, JAGC, USN  
Chief Judge  
Navy-Marine Corps Court of Criminal Appeals



[The e-mail from Mr. Ney referred to in Captain Rolph's e-mail concerned Mr. Ney's inability to attend the swearing-in ceremony for the U.S. Court of Military Commission Judges.]